



1. I am an attorney duly admitted to practice law in the State of Texas and am counsel of record for WSOU Investments, LLC d/b/a Brazos Licensing and Development (“WSOU”) in *WSOU Investments, LLC d/b/a Brazos Licensing and Development v. Google LLC*, Case Nos. 6:20-cv-571-ADA, 6:20-cv-572, 6:20-cv-573, 6:20-cv-575, 6:20-cv-576, 6:20-cv-579, 6:20-cv-580, 6:20-cv-583, 6:20-cv-584, and 6:20-cv-585 (the “**WSOU v. Google Litigations**”), in *WSOU Investments LLC vs. Microsoft Corporation*, Civil Action Nos. 6:20-cv-454-ADA thru 465 (the “**WSOU v. Microsoft Litigations**”) and in *WSOU Investments LLC vs. Dell Technologies Inc. et. al*, Civil Action Nos. 6:20-cv-00473-ADA thru 486 (the “**WSOU v. Dell Litigations**”), all of which are pending in the Western District of Texas (“WDTX”). These litigations are collectively referred to herein as the “Texas Litigations.”

2. I make this declaration in support of Terrier’s and BP Funding’s Omnibus Motion to Transfer and *Omnibus* Opposition to Google’s Motions to Compel.

3. During a sealed hearing on September 7, 2021, Microsoft asked the WDTX to compel WSOU to produce non-public documents relating to the same security agreement at issue in the Google’s subpoenas against BP Funding and Terrier. As Google does in its motions to compel against BP Funding and Terrier, Microsoft argued it needed the information to determine if the security agreement could have impacted WSOU’s standing to bring the Texas Litigations. The WDTX denied Microsoft’s request. At the same hearing, the WDTX also denied Microsoft’s motion to compel WSOU to produce negotiations between WSOU and Nokia. Google has not moved to compel WSOU to produce information concerning the security agreement.

4. A week after Google served the Terrier / BP Trust subpoenas at issue now, I sent a letter to counsel for Google informing Google that Judge Albright had recently denied Microsoft’s motion to compel production of information relating to the same security agreement between WSOU and BP Funding (later assigned to Terrier) at issue again now. Specifically, on September 15, 2021, I sent Google a letter stating, in relevant part:

At a sealed hearing on September 7, which I attended, Judge Albright denied a request to compel WSOU to produce negotiations leading up to the PPA agreement

[between WSOU and Nokia]. He also remarked that the defendant was “wise” to abandon its request to compel WSOU to produce negotiations for licenses. We suggest Google do the same. . . .

In response to Request No. 5, WSOU refers Google to the publicly available security agreements and releases. Your demand for other correspondence or agreements with BP Funding is overly broad and out of proportion to the needs of the case . . .

At a sealed hearing on September 7, which I attended, Judge Albright denied a request to compel WSOU to produce non-public documents and agreements relating to security agreements.

5. Microsoft renewed its request to compel WSOU to produce information relating to the BP Funding / Terrier security agreement. During a sealed hearing on October 7, 2021, the WDTX again denied Microsoft’s request. The agreed proposed order submitted by Microsoft and WSOU for the October 7 hearing, submitted to the WDTX on October 14, 2021, states in relevant part: “Microsoft’s request to compel WSOU to produce the underlying Loan Agreement and full Security Agreement for . . . BP Funding Trust . . . is DENIED.”

6. WSOU and Google are currently discussing an extension of fact discovery in the WSOU v. Google Litigations. Fact discovery is ongoing. Google has not yet deposed WSOU. Google was scheduled to depose a WSOU witness on October 19, 2021. The day before, however, Google unilaterally cancelled the deposition. Google is still discussing discovery with other third parties to occur beyond October 22. For example, on October 19, a third party wrote to Google in response to a subpoena seeking source code for use in the WSOU v. Google Litigations. That third party informed Google that it could host the source code review between November 2-19.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 21st day of October, 2021 at Richmond, Virginia.

BY: 

Travis Richins